IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

RPFC.No. 429 of 2007()

AGAINST THE ORDER DATED 25/07/2007 IN CMP.1132 & 1133/2007 IN MC.4/2007 of FAMILY COURT, MALAPPURAM

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: PETITIONER/1ST RESPONDENT:

ALI BAPPU, S/O.O.P.MOHAMMED,
REPRESENTED BY POWER OF ATTORNEY HOLDER,
THAYYIL ALAVI HAJI, S/O.HYDRU HAJI,
THRIPPANACHI AMSOM, MUTHANNUR DESOM,
P.O.THRIPPANACHI.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS: RESPONDENT/PETITIONER

O.P.MOHAMMED, S/O.KUNHALAN,
MUTHANNUR, P.O.THRIPPANACHI,
MALAPPURAM DISTRICT.

BY

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

R.P.(F.C.) No. 429 OF 2007

Dated this the 16th day of October, 2007

O R D E R

The petitioner who is the eldest son of 68 year old respondent, challenges the order dated 25.7.07 passed by the Family Court, Malappuram, condoning the delay of 8 days in filing the application to set aside the final order passed under section 125 Cr.P.C. on condition that he either deposits or pays to his father a sum of Rs.8,000/- by way of costs on or before 8.8.07. M.C.No.4/07 was filed by the old man on 1.1.07 seeking maintenance from the petitioner herein and the second son of the applicant. The petitioner remained ex parte and as per order dated 15.3.07 the Family Court allowed the application for maintenance as against the petitioner at the rate of Rs.800/- per month from 1.1.07. It was thereafter that the revision petitioner filed the application to set aside the order with a petition to condone the delay of 8 days as aforesaid.

2. The learned counsel for the revision petitioner would submit that even if he were to discharge his liability under the final order, the amount would not come to Rs.8,000/-. That is not a

contention which can be entertained since it was due to the non-appearance of the petitioner that the court was constrained to pass the ex parte order. The petitioner did not file any objection to the M.C. nor did he cross-examine the applicant father much less, adduce any rebuttal evidence. Hence, it was to penalise him for the delay that the Family Court ordered him to pay cost of Rs.8,000/- to none other than his own old father. I see no reason to interfere with the discretion exercised by the Family Court except to grant three weeks time from today to deposit the cost as ordered.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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